HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 357 OF 2005.

Somnath Pandharinath Patil. ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents.

WITH

CRIMINAL WRIT PETITION NO. 358 OF 2005.

Vinod Bhagwan Patil. ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents.

Shri R.D.Suryawanshi, for petitioner

Shri V.B.Konde-Deshmukh, APP for respondent-State.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 20, 2005

P.C. :-

1. Heard counsel for the parties.

2. Both these matters can be disposed of by common Judgment.

3. Only one question has been agitated before this court by the counsel for the petitioner. According to him, the order of externment against the respective

petitioner is excessive in as much as the area of activities of the respective petitioners was confined to Bhiwandi, whereas the petitioner has been externed from district Thane, Mumbai City, Mumbai suburb, Raigad and Nasik district.

4. Indeed, the argument canvassed by the petitioner seems to be attractive at the first blush. However, on going through the record, I find no substance in the argument canvassed by the petitioner. The submission overlooks that in show-cause notice the reason as to why that course has been adopted has been spelt out by the competent authority. The competent authority after giving opportunity to the petitioner to show cause considered the material on record and took decision in terms of the proposal in the show-cause notice. That decision has been confirmed by the appellate authority. In that sense, by externing the petitioner from the areas specified in the show cause notice has been on the basis of the subjective satisfaction reached by the authorities in that behalf. It is not open for this court to interfere with the view so taken by the competent authorities. That is not the scope of the judicial review under article 226 and 277 of the Constitution of India.

5. Besides, this argument overlooks the legal exposition in the case of **Pandharinath Shridhar Rangekar V/s.Dy. Commissioner of Police, State of Maharashtra, AIR 1973 Supreme Court 630.** In paragraph-17 of the said decision, issue as is canvassed by the petitioner is answered. As mentioned earlier the show cause clearly points out the reasons, which weighed with the competent authority to pass order of externment in respect of the areas specified in the show-cause notice.

6. To get over this position, Mr.Suryawanshi relied on the decision of Division Bench of our High Court in the case of **Umar Mohamed Malbari V/s.K.P.Gaikwad, reported in Judgments on Bombay Police Act(1988) page 236, decided on 17/2/1988 in Criminal Writ Petition No.1253 of 1987,** to contend that the issue will have **to** be answered in his favour, in view of the exposition on pages 238 and 239 of the said reported decision.

7. On perusal of the observations, in the first place, the said decision deals with the situation where the area specified in the externment order does not form part of the show cause notice. It is in that context, matter was examined. Besides, the observations made in the said decision which are

pressed into service at page 238 and 239, did not consider the legal position as stated by the Apex Court in paragraph-17 in the case of Pandharinath(Supra). I am bound by the decision of the Apex court, for which reason these petitions ought to fail and the same are therefore, dismissed.

8. Ordered accordingly.